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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/781,033      | 02/09/2001  | Donald P. Gibson     | 36.P290             | 1583             |

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FITZPATRICK CELLA HARPER & SCINTO  
30 ROCKEFELLER PLAZA  
NEW YORK, NY 10112

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| EXAMINER |
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VAN BRAMER, JOHN W

|          |              |
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| ART UNIT | PAPER NUMBER |
|----------|--------------|

3622

| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE  | DELIVERY MODE |
|--|------------|---------------|
| 3 MONTHS                               | 03/06/2007 | PAPER         |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

|                              |                               |                               |  |
|------------------------------|-------------------------------|-------------------------------|--|
| <b>Office Action Summary</b> | Application No.<br>09/781,033 | Applicant(s)<br>GIBSON ET AL. |  |
|                              | Examiner<br>John Van Bramer   | Art Unit<br>3622              |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 December 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 55,56,58 and 59 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 55,56,58 and 59 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Response to Amendment*

1. The amendment December 4, 2006 has cancelled claim 57. No new Claims were amended and Claims 55, 56, 58, and 59 were amended. Thus, the currently pending claims considered below remain Claims 55, 56, 58 and 59.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

- 55, 56, 58 And 59
3. Claims ~~55-59~~<sup>55, 56, 58 And 59</sup> are rejected under 35 U.S.C. 102(e) as being anticipated by Agarwal et al (6,509,910).

Claim 55: Agarwal discloses a head end apparatus for providing image-displaying services comprising:

- a. Widespread advertising information receiving means for receiving widespread advertising information shared between a plurality of said head end apparatuses. (Col 2, line 60 through Col 3, line 9; Col 10, lines 20-32; and Col 11, line 54 through Col 12, line 23)
- c. First storing means for storing local advertising information in an advertising database. (Col 4, lines 23-44; and Col 4, line 57 through Col 5, line 14)
- d. Photo image receiving means for receiving a photo image from a user terminal. (Col 2, line 60 through Col 3, line 9)
- e. Second storing means for storing the photo image in an image database. (Col 4, lines 23-44; and Col 4, line 57 through Col 5, line 14).
- f. Obtaining means for obtaining the local advertising information corresponding to said head end apparatus having the image database in which the image is stored. (Col 2, line 60 through Col 3, line 9; and Col 5, lines 1-14)
- g. Display controlling means for controlling to display the photo image and the obtained local advertising information together at a user display via the user terminal. (Col 5, lines 15- 21; Col 10, lines 20 – 45; Col 14, lines 41 – 52 and Col 20, lines 30 – 52)

Claim 56: Agarwal discloses an apparatus according to Claim 55, further comprising:

- a. Menu display controlling means for displaying a service menu at the user display terminal. (Col 14, lines 41 – 52 and Col 15, lines 18 – 30)

- b. Receiving means for receiving a request of the service menu from the user terminal, wherein the display controlling means displays the photo images at the user display terminal in response to the request received by the receiving means. (Col 14, lines 41 – 52; Col 15, lines 18 – 30; and Col 20, lines 30 – 52)

Claim 58: Agarwal discloses a method for providing image displaying services comprising the steps of:

- a. Receiving widespread advertising information shared between a plurality of head end apparatuses. (Col 11, 35-65 and Col 12, lines 13 – 43)
- b. Storing local advertising information in an advertising database. (Col 4, lines 23-44; and Col 4, line 57 through Col 5, line 14)
- c. Receiving a photo image from a storage media via a user terminal. (Col 11, 35-65 and Col 12, lines 13 – 43)
- d. Storing the photo image in an image database. (Col 4, lines 23-44; and Col 4, line 57 through Col 5, line 14)
- e. Obtaining the local advertising information corresponding to said head end apparatus having the image database in which the photo image is stored from the advertising database. (Col 2, line 60 through Col 3, line 9; and Col 5, lines 1-14)

- f. Controlling to display the photo image the obtained local advertising information together at a user display terminal. (Col 5, lines 15- 21; Col 10, lines 20 – 45; Col 14, lines 41 – 52 and Col 20, lines 30 – 52)

Claim 59: Agarwal discloses a computer-readable memory medium having computer executable process steps stored thereon for execution by a head end apparatus, wherein said process steps comprise:

- a. A first receiving step for receiving widespread advertising information shared between a plurality of head end apparatuses. (Col 11, 35-65 and Col 12, lines 13 – 43)
- b. A first storing step for storing local advertising information in an advertising database. (Col 4, lines 23-44; and Col 4, line 57 through Col 5, line 14)
- c. A second receiving step for receiving a photo image from a storage media via a user terminal. (Col 11, 35-65 and Col 12, lines 13 – 43)
- d. A second storing step for storing the photo image in an image database. (Col 4, lines 23-44; and Col 4, line 57 through Col 5, line 14)
- e. An obtaining step for obtaining the local advertising information corresponding to said head end apparatus having the image database in which the phot image is stored from the advertising database. (Col 2, line 60 through Col 3, line 9; and Col 5, lines 1-14)

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- h. A Controlling step for controlling to display the photo image and the obtained local advertising information together at a user display terminal. (Col 5, lines 15- 21; Col 10, lines 20 – 45; Col 14, lines 41 – 52 and Col 20, lines 30 – 52)

### ***Response to Arguments***

4. Applicant's arguments filed December 4, 2006 have been fully considered but they are not persuasive. The applicant argues that the Agarwal is unconcerned with a cable head end apparatus, much less control over a cable head end apparatus via a user set top box. However, the examiner is interpreting "a cable head end" as a master facility for receiving signals for processing and distribution over a cable system. The applicant apparently uses a similar interpretation on page 14, lines 21-24 where it is stated that the cable head end "serves as an interface between the service providers and the rest of the broadband network". Therefore, the DMF when operating over television cables as disclosed in Col 2, line 60 through Col 3, line 9 of Agarwal is a cable head end apparatus. The term "set top box" describes a device that connects to the cable head end and controls the display of the content received. The interface unit described in Agarawal in Col 3, lines 10-29 is, therefore, a set top box that accepts user input via the user input component. While Agarwal does not use the terms "cable head end" and "set top box", the operation and function of the disclosed apparatus are equivalent to the operation and function of the apparatus the applicant identifies as a "cable head end" and a "set top box".

**Conclusion**

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Van Bramer whose telephone number is (571) 272-8198. The examiner can normally be reached on 6am - 4pm Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*jvb*  
jvb



ERIC W. STAMBER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600